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FILED

Board of Vocational Nursing
and Psychiatric Technicians

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2007-2253

12 **JOAN MARIE BARDEN**
13 **2800 Walnut Avenue, #24**
Carmichael, CA 95608

A C C U S A T I O N

14 **Vocational Nurse License No. VN 220880**

15 . Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely
20 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
21 Psychiatric Technicians ("Board"), Department of Consumer Affairs.

22 2. On or about May 23, 2006, the Board issued Vocational Nurse License Number VN
23 220880 to Joan Marie Barden ("Respondent"). Respondent's vocational nurse license was in full
24 force and effect at all times relevant to all charges brought herein and will expire on November
25 30, 2011.

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4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Board may renew an expired license at any time within four years after the expiration.

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

• • • •

6. Code section 2878.5 states, in pertinent part:

• • • •

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof . . .

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1 7. Code section 490, subdivision (a), states:

2 In addition to any other action that a board is permitted to take against a
3 licensee, a board may suspend or revoke a license on the ground that the licensee has
4 been convicted of a crime, if the crime is substantially related to the qualifications,
5 functions, or duties of the business or profession for which the license was issued.

6 8. California Code of Regulations, title 16, section 2521, states, in pertinent part:

7 For the purposes of denial, suspension, or revocation of a license pursuant
8 to Division 1.5 (commencing with Section 475) of the Business and Professions
9 Code, a crime or act shall be considered to be substantially related to the
10 qualifications, functions or duties of a licensed vocational nurse if to a substantial
11 degree it evidences present or potential unfitness of a licensed vocational nurse to
12 perform the functions authorized by his license in a manner consistent with the public
13 health, safety, or welfare . . .

14 **COST RECOVERY**

15 9. Code section 125.3 provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 **CONTROLLED SUBSTANCES AT ISSUE**

20 10. “Methamphetamine” is a Schedule II controlled substance as designated by Health
21 and Safety Code section 11055, subdivision (d)(2).

22 11. “Amphetamines” are Schedule II controlled substances as designated by Health and
23 Safety Code section 11055, subdivision (d)(1).

24 12. “Norpropoxyphene” is a Schedule IV controlled substance as designated by Health
25 and Safety Code section 11057, subdivision (c)(2).

26 13. “Diazepam” is a Schedule IV controlled substance as designated by Health and Safety
27 Code section 11057, subdivision (d)(8).

28 **FIRST CAUSE FOR DISCIPLINE**

(Criminal Convictions)

1 14. Respondent is subject to disciplinary action pursuant to Code sections 2878,
2 subdivision (f), and 490, subdivision (a), in that on or about August 1, 2008, in the criminal
3 proceeding titled *People v. Joan Marie Barden* (Super. Ct. Sacramento County, 2008, Case No.

07M08769), Respondent pled nolo contendere to violating Vehicle Code section 23152, subdivision (a) (driving under the influence, a misdemeanor), and Health and Safety Code section 11550, subdivision (a) (using/being under the influence of controlled substances, a misdemeanor), crimes substantially related to the qualifications, functions, and duties of a licensed vocational nurse. The circumstances of the crimes are as follows: On or about May 29, 2007, Respondent willfully and unlawfully, while under the influence of an alcoholic beverage or drug or under the combined influence of an alcoholic beverage and a drug, drove a vehicle. Respondent also unlawfully used and was under the influence of the controlled substances methamphetamine, amphetamine, norpropoxyphene, and diazepam.

SECOND CAUSE FOR DISCIPLINE

**(Use of Alcoholic Beverages and Controlled Substances to an Extent
or in a Manner Dangerous or Injurious to Oneself and Others)**

15. Respondent is subject to disciplinary action pursuant to Code section 2878, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2878.5, subdivision (b), in that on or about May 29, 2007, Respondent used alcoholic beverages and controlled substances to an extent or in a manner dangerous or injurious to herself and others, as set forth in paragraph 14 above.

THIRD CAUSE FOR DISCIPLINE

**(Criminal Conviction Involving Use of Controlled Substances
and Consumption of Alcoholic Beverages)**

16. Respondent is subject to disciplinary action pursuant to Code section 2878, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2878.5, subdivision (c), in that on or about August 1, 2008, Respondent was convicted of criminal offenses involving the use of controlled substances and consumption of alcoholic beverages, as set forth in paragraph 14 above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 220880, issued to Joan Marie Barden;
2. Ordering Joan Marie Barden to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: November 23, 2010.


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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